

MOTIONS FOR NEW TRIAL/MOTION TO VACATE JUDGMENT — Rule 24.2 — Trial court may rule on motions filed before appeal is perfected even though appeal may be perfected later — Revised 11/2009

Rule 24.2(a), Ariz. R. Crim. P., says that a motion to vacate judgment may be made “before the defendant's appeal, if any, is perfected.” An appeal is considered perfected fifteen days after the record of appeal has been filed. See Rule 31.11, Ariz. R. Crim. P.¹ If a Rule 24 motion has been filed before the appeal is perfected, the trial court may still consider it. The Comment to Rule 31.11 states that a Rule 24 motion filed before the appeal is perfected “may be decided by the trial court after perfection whether or not the appeal has been stayed under Rule 31.4(a).”²

¹ Rule 31.11. Perfection of the appeal.

No new matter, other than a petition for post-conviction relief not precluded under Rule 32.2, may be filed in the trial court by any party to an appeal later than 15 days after the record on appeal has been filed.

² See *State v. Wynn*, 114 Ariz. 561, 562-63, 562 P.2d 734, 735-36 (App. 1977) (discussing the time limits for filing a motion to vacate judgment under Rule 24.2(a), Ariz. R. Crim. P.)